

REMARKS

Reconsideration of this application is respectfully requested.

In the Office Action, claims 1-30 were pending. Claims 1-30 were rejected. In this response, no claim has been canceled or amended. No new matter has been added. Applicant reserves all rights with respect to the applicability of the doctrine of equivalents.

The Examiner has rejected claims 15 and 30 under 35 U.S.C. § 112, second paragraph, for failing to provide proper antecedent basis. Specifically, the limitation of "said second bidder" recited in claims 15 and 30 lacks antecedent basis. Applicant respectfully disagrees. Prior to this limitation and within the same respective claim, there is a limitation of "wherein said first bid is from a first bidder and said second bid is from a second bidder" (emphasis added). Thus, claims 15 and 30 are in proper antecedent basis forms.

The Examiner has rejected claims 1-3, 5-11, 13-18, 20-26 and 28-30 under 35 U.S.C. §102(e) as being anticipated by U.S. Published Application No. 2001/0044769 ("Chaves") filed March 2, 2001, which claimed the benefit of a provisional application No. 60/187,164 filed March 6, 2000 ("the Chaves '164 provisional application"). The Examiner has rejected claims 4, 12, 19 and 27 under 35 U.S.C. §103(a) as being unpatentable over Chaves. Applicant hereby reserves the right to swear behind Chaves and/or the Chaves '164 provisional application.

It is respectfully submitted that Chaves was filed March 2, 2001, which is after the filing date (e.g., November 14, 2000) of the present application. Thus, only the disclosure of the Chaves '164 provisional application can be used as prior art against the present application. The disclosure of Chaves that is not found in the Chaves '164 provisional application does not entitled to the benefit of the Chaves '164 provisional application.

Specifically, the Examiner cited paragraphs [0057] and [0062]-[0068] of Chaves read on claims 1-30 (12/23/2004 Office Action, pages 3-7). Applicant has obtained a copy of the Chaves '164 provisional application and respectfully disagree. It is respectfully submitted that the cited sections of Chaves (e.g., paragraphs [0057] and [0062]-[0068]) are not disclosed in the Chaves '164 provisional application. Therefore, the cited sections of Chaves do not qualify as prior art to the present application and thus do not anticipate or render claims 1-30 obvious.

In addition, none of Chaves and the Chaves provisional application is not related to an online auction system. Rather, the Chaves provisional application is related to ordinary online retailing system, where a car buyer browses each card dealer's Web site one by one and negotiates a price over the Internet. If one dealer's Web page does not contain the requested item, the buyer moves on a next dealer's Web page (see page 7 of the Chaves provisional application). There is no disclosure or suggestion within the Chaves provisional application of bidding operations among multiple parties substantially concurrently. Therefore, for the reasons discussed above, it is respectfully submitted that claims 1-30 are patentable over Chaves and/or the Chaves provisional application. Withdrawal of the rejections is respectfully submitted.


In view of the foregoing, Applicant respectfully submits the present application is now in condition for allowance. If the Examiner believes a telephone conference would expedite or assist in the allowance of the present application, the Examiner is invited to call the undersigned attorney at (408) 720-8300.

Please charge Deposit Account No. 02-2666 for any shortage of fees in connection with this response.

Respectfully submitted,

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